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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 6, 9-11, 13, 17, 20, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Young (US 3862502) in view of Haslett (US 3297980).

Regarding claim 1, Young discloses a method for collecting animals living on or in a water bottom wherein a collecting device (13, 16) is moved over the bottom (11) having at least one tine (25) provided with fluid outlet means, and a operating means (15) provided on the collecting device (13, 16) for moving the at least one tine (25). See figures 1-4. The claim differs from Young's method in calling for the device to comprise a detection means to activated the movement of the at least one tine. Haslett discloses detection means (14) to detect the presence of animals in or on the water bottom. See figure 1. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Young's method in view of the teachings of Haslett to include detection means for the purpose of detecting the presence of animals in front of the device. The combination of Young and Haslett discloses a detection means and a operating means, wherein the tines can be lowered into the water bottom by the

operating means (15) when the user in the vessel receives a signal from the detection means and can retract the tines from the water bottom when a signal is not receive.

Regarding claim 2, Young as modified in claim 1 discloses a method wherein a plurality of tines (25, 25a) are provided and the collecting device (13, 16) is moved in a first direction over the bottom (11) and the fluid is forced into the bottom (11) in approximately the same direction from an individual tine (25a) based on the detecting means (Haslett 14), and wherein each individual tine (25, 25a) is independently activatable. See figure 4. Merely describing the tines as independently activatable does not place any limitation on the device since it does not describe any movement.

Regarding claim 3, Young as modified in claim 1 a method wherein the fluid is introduced into the bottom less than 25 cm below the bottom when the tines are in a retracted position.

Regarding claim 6, Young as modified in claim 1 discloses a method wherein the animals are detected with the aid of sound. See Haslett column 3, lines 3-5.

Regarding claim 9, Young discloses a device for collecting animals living on or in a water bottom comprising supporting means (13, 16) and means (25) for moving the animals from or off the bottom (11) is moved over the bottom (11). See figures 1-4. The claim differs from Young's device in calling for the device to comprise a detection means to drive the movement of the means for moving the animals. Haslett discloses detection means (14) to detect the presence of animals in or on the water bottom. See figure 1. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Young's device in view of the teachings of Haslett to

include detection means for the purpose of detecting the presence of animals in front of the device. The combination of Young and Haslett discloses a detection means and a driving means, wherein the tines can be lowered or retracted into the water bottom by the driving means (15) when the user in the vessel receives a signal from the detection means.

Regarding claim 10, Young as modified in claim 9 discloses a device wherein the means for moving the animals (25) comprise at least one tine extending below a plane defined by the undersides of the supporting means (20) into the bottom (11), water supply means introducing water into the bottom (11) at a gentle angle, and wherein the tine (25a) is retractable above a plane defined by the underside of the supporting means (20). See figure 4. When the device is in use, the tines are extended below a plane defined by the underside of the support means (20), which in fig 4 is the surface of the ground. When the device is not in use, the tines are retracted above that plane, which is still established as the surface of the ground.

Regarding claim 11, Young as modified in claim 10 discloses a device wherein a row of tine (25) is provided. See figure 3.

Regarding claim 13, Young as modified in claim 10 discloses a device wherein the at least one tine (25) is provided with a free end extending approximately parallel to the plane (20). See figure 4.

Regarding claim 17, Young discloses a method for collecting animals from the bottom of a body of water comprising the steps of moving a collecting device (16) along the bottom surface (11) of a body of water, applying a fluid under pressure below the

bottom surface (11) of the body of water, and collecting animals (40) dislodged by the applied fluid under pressure. See figures 1-4. The claim differs from Young's method in calling for the device to comprise a detection means. Haslett discloses detection means (14) to detect the presence of animals in or on the water bottom. See figure 1.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Young's method in view of the teachings of Haslett to include detection means for the purpose of detecting the presence of animals in front of the device.

Regarding claim 20, Young discloses a device for collecting animals from the bottom of a body of water comprising a support frame (16) having at least one runner (20) movable along a bottom surface (11) of a body of water, an animal mover (25) provided on the support frame (16) activatable to move the animals from the bottom (11) of the body of water, and an animals collector (40). See figures 1-4. The claim differs from Young's device in calling for the device to comprise an animal detector to activated the movement of animal mover. Haslett discloses an animal detector (14) to detect the presence of animals in or on the water bottom. See figure 1. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Young's device in view of the teachings of Haslett to include an animal detector for the purpose of detecting the presence of animals in front of the device. The combination of Young and Haslett discloses an animal detector and a means to move the animal mover, wherein the animal mover can be lowered into the water bottom by

the means to move the animal mover (15) and can retract the animal mover from the water bottom.

Regarding claim 23, Young as modified in claim 17 discloses a method for collecting animals wherein the step of applying a fluid under pressure comprises the step of selectively applying a fluid under pressure from one of a plurality of tines (25) extending below the bottom surface (11) of the body of water upon detection of the presence of an animal in front of the tine (25), wherein each tine is independently activatable. Merely describing the tines as independently activatable does not place any limitation on the device since it does not describe any movement.

Claims 5, 14, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Young (US 3862502) and Haslett (US 3297980) as applied to claims 1 and 9 above, and further in view of Cain (US 4563830). Young and Haslett are discussed above.

Claim 5 differs from Young's method as modified in claim 5 in calling for electric means that are activated on the basis of signals from the detection means. Cain discloses a method that has electric means in the form of electrodes (4) that are located in front of tines (46). See figure 1. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to further modify Young's method in view of the teachings of Cain to include electric means arranged near the tines for the purpose of better flushing out the animals of the bottom that may be missed by the moving tines.

Claim 14 differs from Young's method as modified in claim 9 in calling for electric means in combination with the vibration means. Cain discloses a method that has electric means in the form of electrodes (4) that are located in front of tines (46). See figure 1. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to further modify Young's method in view of the teachings of Cain to include electric means arranged near the tines for the purpose of better flushing out the animals of the bottom that may be missed by the moving tines.

Regarding claim 15, Young as modified in claim 14 discloses a method wherein a series of electric means (Cain 4) and a series of detecting means (Haslett 14) are provided.

#### ***Allowable Subject Matter***

Claims 12 and 24 are allowed.

Claims 18, 19, 21, and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

Applicant's arguments filed 10/1/2007 have been fully considered but they are not persuasive.

Applicant has presented his arguments by basically listing all the limitations contained in the claims of the present application. Examiner is not going to address



each and every element listed since the Examiner's position on each limitation is stated in the above rejection.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John D. Holman whose telephone number is 571 272-2754. The examiner can normally be reached on Monday through Friday 9am-6pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 571 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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JDH

  
DARREN W. ARK  
ART UNIT 3643